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The above is one of the most conspicuous achievements of one of the most noteworthy sessions of an American legislature. Together with the grant to the cities of the reserved rights of direct legislation, which "goes to the source of corruption,"<sup>1</sup> and the permission of municipal ownership of public utilities, which "ultimately destroys the largest corruption fund,"<sup>1</sup> these two enactments form two of the most striking acts of the legislative drama in which the curtain has been rung down upon the rule of the Southern Pacific in California.

*Missouri.* Missouri cities all have the right to own and operate water works, gas, power and electric light plants, if they so desire (Rev. Stats., Mo., 1909, sec. 9904). They also are empowered to supply water from their municipal water works to people outside of their corporate limits, and to other cities (secs. 9905, 9906).

By an act of the legislature of 1911 (Laws of 1911, pp. 351, 352), cities having municipal electric light or power plants are now permitted to supply electric current to persons and companies outside of their own corporate limits and to other cities.

Missouri cities of the third class (*i. e.*, of from 3,000 to 30,000 inhabitants, by act of 1903, as amended in 1909 (Rev. Stats., sec. 9914), were also given the power to own and operate heating plants, telephone plants or exchanges, street railways, conduit systems and public auditorium or convention halls. By act of the last legislature (Laws of 1911, pp. 352, 353), cities of the fourth class (of from 500 to 3,000 inhabitants) are now given the same powers in this matter as the third class cities.

CHARLES HOMER TALBOT.

**Public Utilities.** Five states joined the ranks of those which have a state commission for the control of public service corporations at the sessions of the legislatures during 1911. These states are: New Hampshire, Kansas, Oregon, Ohio, and Washington. One state, New Jersey, transformed its useless law of 1910 into a full-fledged regulative measure. Bills were vigorously pushed in Illinois, Iowa and Pennsylvania, but failed when their passage seemed certain. The legislature of Connecticut is still considering the matter at this writing with a fair possibility of success, and Massachusetts under the insistence of Governor Foss is making an attempt to convert the divided commissions of that state into a single public service commission on the model of New York and Wisconsin. A valuable report

<sup>1</sup> John R. Common's "Proportional Representation," 2d. edition (1907), 309.

has recently been made to the governor on that subject, prepared by Mr. Clinton H. Scovell.

The new laws do not present much that is original. They follow pretty closely the lines laid down in previous statutes of the five states which had already adopted state commissions, and of the interstate commerce commission.

*Kansas.* In this state the board of railroad commissioners is converted into a public utilities commission. The three members are appointed by the governor with the consent of the senate, for a term of three years, after the terms of the present members expire. One commissioner must be a practical business man and one skilled in the operation of a carrier or public utility. No commissioner or the attorney or secretary shall own any stock, bonds or property in any public utility. An anti-nepotism clause is inserted as to employees, related either by marriage or blood, to members of the commission. The positions under the commission are specified but others may be added with the approval of the governor. No provision is made for the removal of commissioners, hence the rule that the power of removal is incident to the power of appointment, will probably hold, thus making the commissioners removable only by the governor and senate or by impeachment. The utilities controlled include pipe lines with all other common carriers, telegraphs, telephones (except mutuals) and companies for the furnishing of heat, light, water or power. Municipally owned utilities are excepted from control by the commission.

All common carriers and public utilities are required "to furnish reasonably efficient service, joint service and facilities . . . and to establish just and reasonable rates, joint tolls, charges and exactions, and to make just and reasonable rules, rates, fares, classification and regulations." The commission may investigate on complaint or its own initiative and prescribe reasonable rates and service after a public hearing in all cases. Rates and service shall not be altered until approved by the commission. Standard units of products may be prescribed and regulations for accuracy of measuring appliances shall be established. Every public utility must furnish detailed accounts prescribed by the commission showing the financial operation and state of the business. An annual report is required in standard detail.

Issues of stocks and bonds are regulated. Appeal must be made before issue, to the commission setting forth the facts of the issue and

its purpose. The commission shall investigate the truth of the statements and if the company complies with the law and its statements are found correct, permission is granted by the commission with a statement of the facts. Consolidations or purchases of stock of competing corporations are prohibited unless allowed by the commission. Common carriers are divorced from an interest in the commodities they carry by direct prohibition. Physical valuation may be made when of use for the fixing of rates or service and for the purpose the commission is given access to the books of any governmental office, state or local.

The most extreme provision of the law and one which goes beyond those of other states is the one requiring the approval of the state commission as to the public necessity of any public utility or common carrier before it may operate. The New Jersey law contains a similar feature, which virtually destroys the power of municipalities in granting franchises.

The rights of municipalities otherwise in controlling public utilities is safeguarded fairly well. The right to regulate utilities and common carriers wholly within a city is expressly left to the municipality subject to an appeal to the commission.

The usual specific requirements are made prohibiting rebates and discriminations, thereby prohibiting free service. All serious accidents must be reported to the commission.

An appeal to the court is provided and the procedure outlined. Any person dissatisfied with the rulings of the commission may appeal directly to the courts and such cases take precedence. The court becomes virtually the authority in all cases as to reasonableness of rates and service established.

*Washington.* The Washington railroad commission consisting of three members is likewise transformed into a public service commission. The members are appointed by the governor with the consent of the senate for six years. The powers of the commission vary only slightly from those outlined above for Kansas. Reasonable and adequate service is required. The commission may proceed upon complaint or its own initiative to make investigations and may fix rates, joint rates and service requirements. Accidents must be reported and the commission may investigate. Power to inspect books and require reports is given.

Special attention is given to the requirement for efficient equipment. The law goes into some detail in fixing standards for safety. Another

special provision is the fixing of a maximum rate of five cents for street car service with transfer upon terms which are just and reasonable.

The commission is required to make a physical valuation of properties and cost of reproduction. It is required also to investigate the financial condition of public utilities and pertinent facts concerning their capitalization. No provision is made, however, to regulate the issue of stocks and bonds except the publicity feature. The court review provisions are similar to those in Kansas. An appeal is provided directly to the courts on the orders of the commission.

*New Jersey.* The board of public utility commissioners, created by the law of 1910, with limited powers, becomes under the new law the controlling power over public service corporations. The term of office is made six years and the members are appointed by the governor with the consent of the senate and may be removed by the governor for neglect of duty or misconduct in office after a hearing. The commissioners are prohibited from having any official relation with a public utility or own stocks or bonds therein. The jurisdiction of the board extends to all public utilities including sewer and oil companies and to common carriers, including canals, pipe lines and subways. The powers of the board are permissive. They may do many things but few are mandatory. The board may proceed on complaint or its own initiative to investigate rates or service and to fix rates and standards of service to be followed by the companies. Measuring devices are subject to inspection and control by the board. The board has power also to require joint rates and service, permit change of grade, require extension of facilities and service, establish uniform accounts, require detailed reports, and depreciation funds, investigate accidents and determine the reasonableness of proposed changes. Discrimination and rebates are prohibited. Stocks and bonds may not be issued until approved by the commission nor may the property be mortgaged, disposed of, merged or consolidated, without such approval. Service may not be discontinued without approval. Grade crossings are prohibited.

Some requirements stand out in the New Jersey law as advanced provisions: Public service corporations are prohibited from capitalizing franchises for an amount greater than that actually paid, or capitalizing contracts for consolidation, merger or lease, or issue bonds or evidences of indebtedness thereon. No franchise is valid until approved by the commission after a hearing to determine the public

convenience and necessity. Another valuable publicity feature is the power granted to require the name, position and duties of every officer, director or head of department in such form as to disclose the responsibility of each.

Provisions for court review are also made. Appeal may be taken to the supreme court and the order of the board set aside if it appears that the facts before the board were not sufficient reasonably to justify the action or that the case was beyond their jurisdiction.

*New Hampshire.* The public service commission in this state is organized with three commissioners appointed by the governor with the consent of the council for a term of six years. Any commissioner may be removed by the governor and council for inefficiency, neglect of duty or malfeasance in office, after notice of the cause, without a hearing. The commissioners are prohibited from owning stock or securities or being pecuniarily interested in any public utility and from serving any utility professionally. The commission sits together and if any member is unable to sit the commission may ask the governor and council to appoint a person for any case pending. The act applies to all common carriers, telegraphs, telephones, ferries, and heat, light, water and power companies. These are required to furnish "such service and facilities as shall be reasonably safe and adequate."

The commission is authorized to keep informed of the conditions and operations of the companies. They may make investigation on their own initiative or on complaint as to rates and service and may direct such changes as they may deem necessary to make the service safe and adequate and at prices which are just and reasonable.

The approval of the commission must be secured before any extension by a railroad corporation is made, and it must be shown that the public good will be promoted. This applies under the term "railroad corporation" to street railroads and other common carriers. The franchise of other public utilities hereafter granted must be approved by the commission and the commission shall pass upon the public necessity of the public utility and may make such terms and conditions as it deems for the public interest. No franchise may be transferred, assigned or leased without the approval of the commission nor shall any contracts relative to a franchise be valid without like approval. Corporations may not acquire control of corporations doing a similar business. The right of eminent domain is to be exercised subject to the control of the commission as to necessity for taking and the damages therefor.

Stock and bond issues must be approved by the commission. Accounts must be filed with the commission showing the use to which the proceeds are put. Stocks must be offered first to present stockholders at not less than par except issues of less than four per cent. of the existing stock.

An appeal from any order of the commission may be taken to the courts by any party aggrieved. The Wisconsin provision that, if new evidence is presented to the court, the action shall be stayed until the commission has been given an opportunity to consider the case with the new evidence is included in the New Hampshire law.

The usual requirements and prohibitions concerning rebates, discriminations and accidents, are imposed by this law. In the main, the New Hampshire law follows closely that of New York with some selected features of other laws.

*Oregon.* The railroad commission of Oregon is given power to regulate telegraphs and telephones, including wireless, street railroads, and heat, light, water and power companies. Municipally owned utilities are excepted.

The provisions of the law follow almost exactly the Wisconsin law of 1907 with its provisions for uniform accounts, depreciation accounts, joint use of equipment, detailed reports, establishment of units of service, testing of measuring appliances, court procedure in case of new evidence, control of public utilities by municipalities and powers of the commission. The commission may proceed upon complaint or upon its own initiative to investigate rates and service and may fix such rates and conditions as may be reasonable. The law incorporates the same provisions as Wisconsin's law prohibiting passes, franks and political contributions. No provision is made in the law regulating the issue of stocks and bonds. The only distinctly new feature is the power of removal of commissioners which is given to the governor, secretary of state and state treasurer (the appointing power of the railroad commission) on grounds of inefficiency, neglect of duty or malfeasance in office after charges have been preferred and a hearing given.

*Ohio.* The Ohio railroad commission becomes, under the new law, the public service commission of Ohio, with power "to supervise and regulate public utilities and railroads" which include all common carriers, express, telegraph, telephone, messenger, signalling, heat, light, water and power companies.

The commission shall investigate rates and service either on com-

plaint or its own initiative and may make such orders as may be reasonable. In case of fixing rates, the law sets forth some of the conditions which must be taken into consideration in establishing a just rate. The commission may make a valuation of all property including its physical property. In such cases a hearing must be given and a revaluation may be ordered by the commission at any time on its own motion.

The commission may establish uniform accounts and require depreciation accounts. It is required to fix standards and units of measurements. It may test all appliances for measurement. Stocks, bonds or other evidence of indebtedness may not be issued until a full statement is made to the commission and its approval secured. Full power of investigation is given to the commission to carry out this provision. Interstate utilities or railroads are excepted as to the issue of stocks and bonds on properties outside the state. Stock and scrip dividends are prohibited. Franchises may not be capitalized for more than the amount actually paid for them.

Competing lines may co-operate or consolidate with the consent of the commission after an investigation as to public convenience. Telephone companies may, on complaint, be compelled to make connections and fix joint rates.

The usual court procedure provisions are made to pass upon the orders of the commission. A new feature in this law relates to municipal control of rates and service. Any municipal corporation may fix the rates of public utilities within one year before the expiration of any contract. Thereupon the public utility or one per cent. of the electors of the city may appeal to the commission. After a hearing, the commission may fix a rate. In all such cases there must be a physical valuation of the property.

Companies are prohibited from giving rebates, or unjust or unreasonable preferences. They must permit the joint use of facilities on order of the commission. They must file schedules of rates with the commission and post the same as ordered. No change is permitted until thirty days after the change is posted. They may enter into agreements with customers for a sliding scale or similar arrangement.

JOHN A. LAPP.

**The Recall.** The constitutional amendments proposed by the legislatures of Idaho and Wisconsin for the recall of public officials are nearly identical. No attempt is made to incorporate in them any